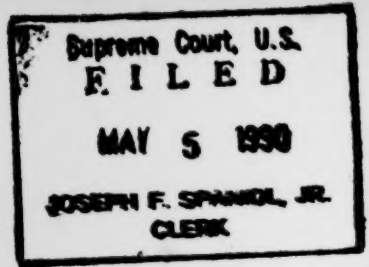


89-1788



No. _____

IN THE SUPREME COURT
OF THE
UNITED STATES

OCTOBER TERM, 1989

CHARLES L. MEYER,
PLAINTIFF-APPELLANT PRO SE,
PETITIONER,

VS.

THE STATE BAR OF TEXAS,
THE HONORABLE PETER LOWRY,
DISTRICT JUDGE, 261ST JUDICIAL DISTRICT,
TRAVIS COUNTY, TEXAS, AND
STEVEN D. PETERSON, GENERAL COUNSEL,
STATE BAR OF TEXAS,
RESPONDENTS.

PETITION FOR WRIT OF CERTIORARI
FOR DISMISSED CAUSE NOS.
C-8991 AND C-9145
OF THE SUPREME COURT OF TEXAS

Charles L. Meyer
Plaintiff-Appellant Pro Se
355 Pinewood Lane
San Antonio, Texas 78216
(512) 828-1913

66

QUESTIONS PRESENTED FOR REVIEW

1. Whether the due process of law hearing procedure mandated by the Fourteenth Amendment of the U. S. Constitution extends to formal grievance proceedings conducted by the State Bar of Texas.

2. Whether other State Supreme Court and U. S. Supreme Court decisions pertaining to due process of law hearing procedures held before a disciplinary proceeding by a state administrative agency also apply to the State Bar of Texas formal grievance procedure.

3. Whether § 81.078 of the Texas State Bar Act shall be declared unconstitutional because it is unenforcible.

4. Whether Texas Court decisions of dismissal without giving reasons therefor and a trial judge's refusal to prosecute litigation filed by a pro se litigant impinges upon the concept of fairness which is a form of discrimination which is prohibited by the Fourteenth Amendment of the U. S. Constitution.

5. Whether the action of the General Counsel of the State Bar of Texas in refusing to permit a formal appeal of two dismissed formal grievances was unlawful or in the alternative an abuse of discretion.

LIST OF PARTIES

Charles L. Meyer, Plaintiff-Appellant
Pro Se.

State Bar of Texas, Defendant-Appellee.
The State Bar of Texas is an administrative agency of the judicial department of the State of Texas which is prescribed by Vernon's Texas Codes Annotated, Government Code, § 81.011 (a) (Appendix D page 5).

The Honorable Peter Lowry, District Judge, 261st Judicial District, Travis County District Court, Respondent-Appellee.

Mr. Steven D. Peterson, General Counsel, State Bar of Texas, Respondent-Appellee.

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No. _____

**IN THE SUPREME COURT
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OCTOBER TERM, 1989

CHARLES L. MEYER,
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VS.

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DISTRICT JUDGE, 261ST JUDICIAL DISTRICT,
TRAVIS COUNTY, TEXAS, AND
STEVEN D. PETERSON,
GENERAL COUNSEL,
STATE BAR OF TEXAS,
RESPONDENTS.

PETITION FOR WRIT OF CERTIORARI

**FOR DISMISSED CAUSE NOS.
C-8991 AND C-9145
OF THE SUPREME COURT OF TEXAS**

Charles L. Meyer, Plaintiff-Appellant
Pro Se, petitions for Writ of Certiorari to
review the two dismissed Cause Nos. C-8991 and
C-9145 of the Supreme Court of Texas.

OPINIONS BELOW

The decisions of the 351st Judicial District Travis County, Texas for Cause No. 453,046 dated April 12, 1989 and June 23, 1989 are included infra at Appendix B pages 1--2. The decisions of the Supreme Court of Texas for Cause No. C-8991 dated November 1, 1989 and December 6, 1989 are included infra at Appendix B pages 3--6. The decision on a collateral issue to the above two decisions by the Supreme Court of Texas Cause No. C-9145 dated December 13, 1989 is included infra at Appendix B pages 7--8. The Appellant doubts that any

of these court decisions are reported in any court reporter publications.

JURISDICTION

The judgment of the Supreme Court of Texas Cause No. C-8991 (Appendix B, *infra* pages 3 and 4) was entered on November 1, 1989. A motion for rehearing was denied on December 6, 1989 (Appendix B *infra* pages 5--6). The judgment of the Supreme Court of Texas Cause No. C-9145 (Appendix B *infra* pages 7--8), a collateral issue to Cause No. C-8991, was entered on December 13, 1989. On March 10, 1990 Associate Justice Byron R. White signed two orders to extend the time within which to file a Petition for Writ of Certiorari, Application No. A-637 (i.e., Supreme Court of Texas Cause No. C-8991) until April 5, 1990 and Application No. A-638 (i.e., Supreme Court of Texas Cause No. C-9145) until April 12, 1990. The jurisdiction of this Court is invoked under 28 U. S. Code § 1257 (a).

**CONSTITUTIONAL AND
STATUTORY PROVISIONS INVOLVED**

The Fourteenth Amendment of the U. S. Constitution in relevant part reads:

. . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

The Texas Constitution Article 1 § 19 reads:

No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised,

except by the due course of the law of the land.

Vernon's Texas Codes Annotated, Government Code, Chapter 81, State Bar, § 81.078 (b) in relevant part reads:

On proof of an attorney's conviction in a trial court of competent jurisdiction of any felony involving moral turpitude or any misdemeanor involving the theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of residence of the convicted attorney shall enter an order suspending the attorney from the practice of law . . .

Vernon's Texas Codes Annotated, Government Code, Volume 3, Title 2, Subtitle G. Appendix Article 10 § 7 (1) in relevant part reads:

Discipline may be imposed for professional misconduct which includes:

(1) Acts or omissions by a lawyer, individually or in concert with another person or persons, which violate the Texas Code of Professional Responsibility,¹ (Footnote 1 omitted.) whether or not the acts or omissions occurred in the course of a lawyer-client relationship; . . .

**PROCEEDINGS BEFORE
THE STATE BAR OF TEXAS**

The Appellant filed two different formal grievances against two different attorneys, Mr. E. B., Jr.¹ and Mr. R. M.¹ Each State Bar of Texas District Grievance Committee dismissed each formal grievance without holding a due process of law hearing. Formal grievance no. 10-189-88 against Mr. E. B., Jr.¹ was dismissed on February 8, 1988 (Appendix A, pages 1 and 2).

1. The initials of these attorneys are used to insure confidentiality. See Vernon's Texas Codes Annotated, Government Code, § 81.074 (c) (Appendix D pages 9 and 10.)

Formal grievance no. 9-149i-87-88 against Mr. R. M.¹ was dismissed on March 4, 1988 (Appendix A pages 3--4). The Appellant submitted a formal appeal of both dismissed formal grievances to Mr. Steven D. Peterson, General Counsel, State Bar of Texas, pursuant to Vernon's Texas Codes Annotated Government Code, Volume 3, Title 2, Subtitle G Appendix Article 10 § 10 (f) Appendix D pages 11--12)². Mr Peterson's letter dated September 26, 1988 declined to permit a formal appeal of these two dismissed formal grievances (Appendix A pages 5 and 6).

COURT PROCEEDINGS

BEFORE DIFFERENT

STATE OF TEXAS COURTS

2. This statute is one of many statutes pertaining to the function of judicial reform which was enacted by the Texas Legislature and became effective on September 1, 1987. The Texas Legislature revoked many old statutes and restated them in new published volumes titled by functions. The Texas Legislature also promulgated many new statutes which did not exist prior to 1987. The statutes enacted in 1987 became a portion of a large body of statutes which are not well known by the citizenry.

On September 24, 1988 the Appellant filed Cause No. 453,046 before the 351st Judicial District, Travis County, Texas pursuant to the Administrative and Texas Register Act, Vernon's Civil Statutes of the State of Texas Annotated, Article 6252-13a § 19 (a) and (b) (Attachment D, pages 1--4). This legal pleading is a petition to question the constitutionality of a Texas statute. The statute in question is identified on page 4 paragraph IV. of this petition as the State Bar Act, Vernon's Texas Codes Annotated, Government Code, Chapter 81². The constitutionality of this statute was questioned because it contains three different deficiencies.

a. This statute disfranchises the litigant through its lack of specification of a due process of law hearing procedure (Plaintiff's petition, paragraph VI., pages 4 and 5).

b. This statute is invalid without specification of a due process of law hearing procedure because it violates this requirement

of the Texas Constitution Article 1 § 19 (Appendix D page 1) and the Fourteenth Amendment of the U. S. Constitution (Appendix C page 1) (Plaintiff's petition, paragraph X., page 7).

c. "Courts are reluctant to strike down a legislative act because of conflicting or vague provisions, and general inconsistencies will be resolved, if possible, in order to give effect to the dominant legislative intent manifest by a statute, but when the provisions of a statute are so inharmonious and conflicting as to render it impossible of execution, courts have no alternative but to declare it inoperative and void." Southern Canal Co. v. State Board of Water Engineers, 159 Tex. 277, 318 S. W. 2d 619 (S. Ct. of Texas, 1958), page 624, paragraph [5-6] (Plaintiff's petition, paragraph IX. (b), pages 5 and 6).

The trial judge dismissed the Plaintiff's petition on April 12, 1989 allegedly because it did not specify damages caused him by the challenged statute³. The Plaintiff on May

1, 1989 filed a supplemental petition to specify damages caused him by the challenged statute and a motion for a new trial. A hearing on the Plaintiff's motion for a new trial was held on June 23, 1989. This court dismissed the Plaintiff's motion for a new trial (Appendix B page 2) without specifying a reason therefor.

On September 11, 1989 the Appellant filed Cause No. C-8991 which is a direct appeal from the 345th Judicial District to the Supreme Court of Texas pursuant to Vernon's Texas Codes Annotated Government Code § 22.001 (c) (Appendix D page 4). This direct appeal amplified the pleading dismissed by the 345th Judicial District with two averments.

a. This legal pleading specifies the specific portion of the State Bar Act for which the constitutionality is questioned is § 81.078 (Appendix D, pages 8--9) (Appellant's appeal page 2, paragraph 2 and Point of Error 1,

3. This averment is a common law requirement. See Texas Jurisprudence III, Volume 12, Constitutional Law, page 527 § 32 Standing to Challenge Constitutionality.

page 4). This section of the State Bar Act is the prescribed procedures followed by the State Bar of Texas District Grievance Committee to consider a formal grievance filed against an attorney. This section of the State Bar Act selectively restricts unprofessional conduct to be the prior conviction of an attorney by a court for the commission of a misdemeanor or felony.

b. The Appellant compared the criteria for unprofessional conduct in § 81.078 of the State Bar Act to the criteria in a different statute which is the policy of the American Bar Association which is any violation of any Canon of the legal profession comprises unprofessional conduct. This older Texas Statute which conflicts with the content of § 81.078 of the State Bar Act is Vernon's Revised Civil Statutes of the State of Texas, Volume 1A, Attorneys, 1988 Cumulative Annual Pocket Part, Title 14 Appendix, State Bar Rules, Article X, § 7 (1)⁴.

The Plaintiff's appeal pages 13 and 14 cites the following listed court reporter citations under common law principle where state supreme courts of states other than Texas and for the District of Columbia vacated the inferior court decision and remanded with instructions for the State Bar to hold a due process of law hearing. These cited court reporter citations are: Bradley v. Fisher, 80 U. S. 325, 20 L. Ed. 646 (S. Ct. of D. C., 1872); Re Santosuosso, 318 Mass. 489, 62 N. E. 2d 105 (S. Judicial Ct. of Mass., Suffolk, 1945), 161 ALR 892; State ex rel. Foster v. Washington State Bar Assn., 23 Wash. 2d 800, 162 P. 2d 261 (S. Ct. of Wash., 1945), 160 ALR 1366 and Re Metzenbaum, 22 Wash. 2d 75, 154 P. 2d 602 (S. Ct. of Wash., 1944).

The Plaintiff's appeal at pages 3 and 15 repeats the citation of Southern Canal Co. v. State Board of Water Engineers, cited previously 4. This statute is restated as Vernon's Texas Codes Annotated Government Code, Volume 3, Title 2, Subtitle G, Appendix Article 10 § 7 (1) (Appendix D, page 10).

in the Plaintiff's petition, paragraph IX. (b), pages 5 and 6, supra, where the Supreme Court of Texas voided a Texas statute where it was so inharmonious and impossible to enforce.

The Appellant's appeal at pages 12 and 13 cites the following listed court reporter citations pertaining to the holding of due process hearings before State of Texas administrative agencies: Martinez v. Texas State Board of Medical Examiners, 476 S. W. 2d 400 (C. C. A.--San Antonio, 1972), writ ref n r e, app dismd 409 U. S. 1020, 34 L. Ed. 312, 93 S. Ct. 463 (1972); Texas Employment Com. v. Johnnie Dodd Automotive Enterprises, Inc., 551 S. W. 2d 171 (C. C. A.--Waco, 1977), writ ref n r e; Anchor v. Wichita County Water Impr. Dist., 123 Tex. 105, 66 S. W. 2d 657 (C. C. A. of Texas, Section A, 1933); Bradley v. Texas Liquor Control Board, 108 S. W. 2d 300 (C. C. A. of Texas, Austin, 1937) and G. & H. Motor Freight Lines, Inc. v. Railroad Com., 140 S. W. 2d 946 (C. C. A. of Texas, Austin, 1940), writ dismd.

The Supreme Court of Texas dismissed Cause No. C-8991 for want of jurisdiction on November 1, 1989 (Appendix B, pages 3 and 4).

The Appellant filed a motion for rehearing for Cause No. C-8991 with the Supreme Court of Texas on November 8, 1989. The Appellant's motion for rehearing avers that he has perfected a timely appeal and he has a right to question the constitutionality of a Texas statute. On December 6, 1989 the Supreme Court of Texas dismissed the Appellant's motion for rehearing without giving a reason therefor (Appendix B pages 5--6).

On September 26, 1988 the Plaintiff filed Cause No. 453,471 at the 261st Judicial District, Travis County, Texas as a collateral issue to Cause No. 453,046 which he filed before the 351st Judicial District on September 24, 1988. This second legal pleading is a Petition for Writ of Mandamus against the State Bar of Texas and its General Counsel Steven D. Peterson. The Plaintiff cited in this petition on

pages 6 and 7 the citation of Leitman v. State Bar Grievance Board, 198 N. W. 2d 313 (S. Ct. of Mich., 1972). The Michigan State Bar had dismissed a citizen's complaint against an attorney without the holding of a hearing. The Michigan State Supreme Court held that the Grievance Administrator's investigation was insufficient to form the basis of an exercise in discretion to dismiss the charges. "Where it shall appear that reasonable cause exists, and abuse of discretion is indicated, this Court will issue its writ and command the State Bar Grievance Board to convene a hearing panel for public hearing on the charges. . . . This Court, being of the opinion, that the investigation of the Grievance Administrator in this cause is insufficient to form the basis of an exercise of his or the Board's discretion to dismiss the charges in the instant cause, the matter is remanded to the State Bar Grievance Board for further investigation. . . ." Op. cit., page 318.

The trial judge of the 261st Judicial

District, the Honorable Peter Lowry, did not prosecute this legal action because it contained deficiencies. The Plaintiff, a pro se litigant, hired an attorney to review this legal action docket file and advise him of how to cure all of the deficiencies. On July 11, 1989 the Plaintiff filed a First Amended Petition for Writ of Mandamus and two related pleadings against the State Bar of Texas and its General Counsel Steven D. Peterson. This amended pleading contained cures of all of the deficiencies which had prevented Judge Lowry from prosecuting Cause No. 453,471. On July 12, 1989 the Plaintiff wrote to Judge Lowry to advise him of his corrective actions taken which cured all of the deficiencies which had prevented the prosecution of this legal action.

On October 16, 1989 the Relator filed Cause No. C-9145 with the Supreme Court of Texas. This legal pleading is a motion for leave to file a Petition for Writ of Mandamus and the Petition for Writ of Mandamus against

the Honorable Peter Lowry, District Judge, 261st Judicial District, Travis County, Texas and the State Bar of Texas and its General Counsel Steven D. Peterson, Respondents. This legal pleading avers that the trial judge, Honorable Peter Lowry, by failing to prosecute a viable legal action which is pending in his court since September 26, 1988, Cause No. 453,471, has failed to perform his ministerial duties. On December 13, 1989 the Supreme Court of Texas overruled this motion for leave to file a Petition of Writ of Mandamus without giving a reason therefor (Appendix B pages 7--8).

**REASONS FOR GRANTING
THIS PETITION FOR
WRIT OF CERTIORARI**

State Supreme Courts for states other than Texas and for the District of Columbia have vacated inferior court decisions and remanded with instructions for the State Bar to hold a due process of law hearing for a formal griev-

ance which had been filed against an attorney and had been dismissed without the holding of a due process of law hearing. The Appellant cites Bradley v. Fisher, Re Santosuosso, State ex rel. Foster and Re Metzenbaum, supra.

Texas courts have ruled for the holding of due process of law hearings before State of Texas administrative agencies. The Appellant cites Martinez v. Texas State Board of Medical Examiners, 476 S. W. 2d 400 (C. C. A.--San Antonio, 1972), writ ref n r e, app dismd 409 U. S. 1020, 34 L. Ed. 2d 312, 93 S. Ct. 463 (1972); Texas Employment Comm., Anchor, Bradley v. Texas Liquor Control Board, G. & H. Motor Freight Lines, supra, and Galindo v. State, 535 S. W. 2d 923, 927 (C. C. A.--Corpus Christi, 1976) which cites Armstrong v. Mango, 380 U. S. 585, 85 S. Ct. 1187 (1953), 14 L. Ed. 2d 62, the cases cited therein, and Grannis v. Ordean, 234 U. S. 385, 394 (1914), 34 S. Ct. 779, 783, 58 L. Ed. 1363. This Honorable Court has also ruled upon this same legal issue. The Appell-

ant cites Freidman v. Rogers, 99 S. Ct. 887, 888, 889 (1979), 440 U. S. 1, 59 L. Ed. 2d 190, rehearing denied, 99 S. Ct. 2018 (1979), 441 U. S. 917, 60 L. Ed. 2d 389.

The averments described in the above two paragraphs represent court decisions which are violative of the equal protection of the law upon states requirement of the Fourteenth Amendment of the U. S. Constitution. The Appellant cites as a precedent for this legal pleading Orr v. Orr, 99 S. Ct. 1102 (1979), 440 U. S. 268, 59 L. Ed. 2d 306 as follows: "Where a state court does not decide against a petitioner or appellant upon an independent state ground, but deeming the federal question to be before it, actually entertains and decides that question adversely to the federal right asserted, this Court has jurisdiction to review the judgment if, as here, it is a final judgment. We cannot refuse jurisdiction because the state court might have based its decision, consistently with the record, upon an independent and

adequate non-federal ground. Indiana ex rel. Anderson v. Brand, 303 U. S. 95, 98, 58 S. Ct. 443, 445, 82 L. Ed. 685 (1938)." Id. at page 1110.

The Appellant argued in the Texas Courts the citation of Southern Canal Co., supra, as justification to void § 81.078 of the State Bar Act. The Appellant amplifies this argument with the following citations which equate any void statute to be unconstitutional. The Appellant cites C J S Volume 16 § 3 Constitutional Law page 25 as follows: "Statutory law, as discussed infra § § 61 (i.e., Validity of Statutory Provisions), 62 (i.e., Federal Statutes), in order to be valid must conform to the constitution, both federal and state, and likewise any principle of common law in conflict therewith is void.³⁹ Anything that is unconstitutional is void.⁴⁰ . . ." (Footnote 40 omitted.)

Footnote 39. . . . Dickson v. Strickland, 265 S. W. 1012 (S. Ct. of Texas, 1924), 114 Tex. 176, Tilton v. Cowles

Pub. Co., 459 P. 2d (S. Ct. of Wash., 1969), 76 Wash. 2d 707, certiorari denied 90 S. Ct. 2238 (1970), 399 U. S. 927, 26 L. Ed. 2d 792.

The Appellant argues that the letter decision dated September 6, 1988 of Steven D. Peterson, General Counsel, State Bar of Texas which does not permit a formal appeal of the two dismissed formal grievances Appendix A pages 5 and 6) is unlawful. The Appellant cites Vernon's Texas Codes Annotated Government Code § 81.030² (Appendix D pages 5--7) for the statutory duties of the State Bar of Texas General Counsel. According to this statute the General Counsel does not have the authority to refuse to permit an appeal of dismissed formal grievances. The State of Texas since September 1, 1987 has had a permissively worded statute to permit a hearing for a formal grievance. The Appellant cites Vernon's Texas Codes Annotated, Government Code, Volume 3, Title 2, Subtitle G Appendix, Article 10 § 10 (E)² (Appendix D pages

10 and 11). The Appellant argues that this situation comprises judicial error. The Appellant cites Vernon's Civil Statutes of the State of Texas, Annotated, 1990 Cumulative Annual Pocket Part, the Administrative Procedure and Texas Register Act, Article 6252-13a, § 19 (e) (1)--(6) (Appendix D pages 2--4). The Appellant argues as an alternative to the issue of judicial error the abuse of discretion by the General Counsel of the State Bar of Texas. The Appellant cites Leitman, supra, for this issue.

The pervasiveness of the Texas court decisions dated June 23, 1989, December 6, 1989 and December 13, 1989 (Appendix B pages 2, 5--8) without giving reasons therefor as well as the refusal of the Honorable Peter Lowry, District Judge, 261st Judicial District, Travis County, Texas to prosecute Cause No. 453,471 conveys a disdain towards the Appellant, a pro se litigant. The Appellant appeared pro se in the Texas courts and appears in this legal pleading pro se because he lacks sufficient financial

financial resources to engage counsel. The Appellant argues that three Texas court decisions impinge upon the concept of fairness. "Fairness of treatment means uniformity unless there is some reasonable basis for distinction, and it is generally regarded as essential to 'fair treatment' that all persons who are similarly situated be dealt with on equal basis." Gregory v. Barr, 203 F. 2d 364, 367 (Em. App., 1953).

"It is axiomatic that, while a statute or regulation may, on its face, be non-discriminatory, a discriminatory application of the statute or regulation is nonetheless unlawful. Yick Wo v. Hopkins, 118 U. S. 356, 373, 6 S. Ct. 1064 (1886), 30 L. Ed. 220". Id. at page 368. The Appellant argues that lack of fairness by these Texas courts towards the Appellant, a pro se litigant, is a form of discrimination which is violative of the Fourteenth Amendment of the U. S. Constitution. The Appellant cites the following court reporter citations in support of this argument. "Prohibitions of this amendment

extend to all actions of state denying equal protection of the laws whatever the agency of the state taking the action." Avery v. Midland County, Texas, 88 S. Ct. 1114, 1117, 1118 (1968), 390 U. S. 474, 20 L. Ed. 2d 45, on remand 430 S. W. 2d 487 (S. Ct. of Texas, 1968). "State has obligation to insure that actions of its agencies do not deprive any person of equal protection of the law." U. S. v. State of Texas, 321 F. Supp. 1043 (E. D. Texas, Marshall Division, 1970), supplemented 330 F. Supp. 235 (E. D. Texas, Tyler Division, 1971), affirmed 447 F. 2d 441 (Fifth Circuit, 1971), certiorari denied, 92 S. Ct. 675 (1972), 404 U. S. 1016, 30 L. Ed. 2d 663.

The Supreme Court of Texas has decided upon the question of constitutionality for the due process hearing before the State Bar of Texas presented in conflict with decisions of other State Supreme Courts from other states. Other State Supreme Courts and the U. S. Supreme Court have decided that a disciplinary proceed-

ing by a state administrative agency requires a due process of law hearing procedure. The Appellant has argued that the unenforceability of § 81.078 of the State Bar Act makes it void which is synonymous with it being declared unconstitutional. The Appellant has also argued that it was unlawful or in the alternative an abuse of discretion by the General Counsel of the State Bar of Texas to refuse to permit a formal appeal of the two dismissed formal grievances which had been filed by the Appellant.

CONCLUSION

The Appellant concludes that he has prepared this legal brief so that it meets the criterion of legal sufficiency. The Appellant's legal brief may lack the preciseness of a legal pleading which would be prepared by an attorney. "Courts generally construe the pleadings of a pro se litigant more leniently than in judging the complaint drafted by an attorney." Haines v. Kerner, 404 U. S. 519, 30 L. Ed. 2d 652, 92

S. Ct. 594 (1972).

For all of the arguments presented above, the Appellant respectfully requests that this Petition for Writ of Certiorari be granted by this Court.

Respectfully submitted,

Charles L. Meyer

Plaintiff-Appellant Pro Se

355 Pinewood Lane

San Antonio, Texas 78216

(512) 828-1913

CERTIFICATE OF SERVICE

On the fifth day of April, 1990, a true and correct copy of the Petitioner's Petition for Writ of Certiorari for dismissed Cause Nos. C-8991 and C-9145 of the Supreme Court of Texas was placed in the United States Mail, Certified, return receipt requested and served upon the following listed individuals pursuant to Supreme Court Rule 29.1 and Rule 29.3.

Mr. Joseph P. Spaniol, Jr.

Court Clerk

U. S. Supreme Court

1 First Street, NE

Washington, D. C. 20543

Ms. Linda A. Acevedo

Assistant General Counsel

Office of General Counsel

State Bar of Texas

Box 12487 Capitol Station

Austin, Texas 78711

Honorable Peter Lowry

District Judge
261st Judicial District
Travis County Courthouse
Box 1748
Austin, Texas 78711

28 U. S. Code § 2403 (a) may be applicable. Service is also made upon the following named official pursuant to Supreme Court Rule 29.4 (b).

The Solicitor General
Department of Justice
Washington, D. C. 20540

Charles L. Meyer
Plaintiff-Appellant Pro Se

A-1

STATE BAR OF TEXAS

February 8, 1988

District 10

Commerce Plaza Building

111 Soledad, Suite 840

San Antonio, TX 78205

Mr. Charles L. Meyer

355 Pinewood Lane

San Antonio, Texas 78216

Re: MEYER VS. E. B.

File #10-189-88

Dear Mr. Meyer:

Your complaint against the above named attorney has been considered by the District 10A Grievance Committee. The Committee is of the opinion that Mr. E. B. has not been guilty of professional misconduct in connection with this matter, as set out in the State Bar Rules; therefore, the complaint has been dismissed. The Grievance Committee appreciates your bring-

A-2

ing this matter to our attention and we appreciate your cooperation during the investigation.

Sincerely,

Sol Casseb, III, Chairperson
District 10A Grievance Committee
State Bar of Texas

STATE BAR OF TEXAS

March 24, 1988

Carlos L. Ancira
300 West 5th Street
Suite 1100
Austin, Texas 78701

Mr. Charles L. Meyer
355 Pinewood Lane
San Antonio, Texas 78216
Re: #9-149i-88 Meyer-M.

Dear Mr. Meyer:

Lawyers in Texas are regulated by specific rules contained in the Rules Governing the State Bar of Texas. The Grievance Committee has the duty to review each inquiry about an attorney and to determine whether the inquiry alleged professional misconduct as defined by these rules. An attorney found guilty of professional misconduct may be reprimanded, suspended, or disbarred.

After reviewing your grievance, the Grievance Committee has determined that the information furnished by you does not show professional misconduct on the part of the attorney. The rules allow you to appeal the action of the Grievance Committee with the approval of the General Counsel of the State Bar of Texas. If you choose to appeal, please advise me so within thirty (30) days of the date of this letter.

Sincerely,

Carlos L. Ancira

Committee Member

Grievance Committee for

State Bar District No. 9

cc: Mr. R. M.

Mr. Thomas H. Watkins, Chairman

STATE BAR OF TEXAS

Office of the General Counsel

September 26, 1988

Mr. Charles L. Meyer

355 Pinewood Ln.

San Antonio, TX 78216

Re: Meyer - B.; 10-189A-88

Meyer - M.; 9-149-87-88

Dear Mr. Meyer:

Thank you for your letter of September 22, 1988.

The Texas Courts have determined that grievance committees of the State Bar of Texas are not subject to Art. 6252-13a, Tex. Rev. Civ. Stat. Ann. Your assertion that the statute does apply does not make it so. You may want to look at Art. X, Sec. 5 and 6, State Bar Rules, for a statement of my duties regarding a request for appeal.

Very truly yours,

Steven D. Peterson

A-6

General Counsel

SDP/lcl

No. 453,046

CHARLES L. MEYER,	§	IN THE DISTRICT
	§	
Plaintiff	§	COURT TRAVIS
	§	
V.	§	COUNTY, TEXAS
	§	
STATE BAR OF TEXAS,	§	_____ JUDICIAL
	§	
Defendant	§	DISTRICT

ORDER

On this 12th day of April, 1989, came on to be heard Plaintiff's Motion for Temporary Injunction. Having seen the evidence and heard the arguments of counsel, the Court is of the opinion that the relief sought should be denied.

IT IS ACCORDINGLY, ORDERED, ADJUDGED AND DECREED that the Motion for Temporary Injunction is DENIED.

Each party shall bear its own costs.

Signed: _____

Judge Presiding

B-2

No. 453,046

CHARLES L. MEYER	§	IN THE DISTRICT
	§	
V.	§	COURT TRAVIS
	§	
THE STATE BAR	§	COUNTY, TEXAS
	§	
OF TEXAS	§	345TH JUDICIAL
		DISTRICT

ORDER

On the 23rd day of June, 1989, came on to be considered Petitioner's motion for new trial. Having heard arguments of counsel and considered the evidence, the Court is of the opinion that said motion should be and hereby is OVERRULED.

SIGNED this _____ day of _____,
1989.

JUDGE PRESIDING

IN THE SUPREME COURT OF TEXAS

NO. C-8991

CHARLES L. MEYER,)	
)	
Appellant)	
)	
)	Direct Appeal
vs.)	
)	
THE STATE BAR)	
)	
OF TEXAS,)	
)	
Appellee)	

JUDGMENT

This cause was reviewed as a direct appeal from the 345th District Court of Travis County, Texas. The original record and briefs of counsel were considered.

It is ordered that:

- 1) This appeal is dismissed
for want of juris-
diction.

A copy of this judgment shall be certified to the District Court of Travis County,

B-4

Texas.

November 1, 1989

B-5

SUPREME COURT OF TEXAS

P. O. Box Texas

Supreme Court Building

Austin, Texas 78711

John T. Adams, Clerk

December 6, 1989

Mr. Charles L. Meyer

355 Pinewood Lane

San Antonio, TX 78216

Mr. Harry G. Potter, III

Office of the Attorney General of Texas

Jim Mattox, A. G.

P. O. Box 12548 Capitol Station

Austin, TX 78711

Mr. Steven D. Peterson

Office of the General Counsel

State Bar of Texas

P. O. Box 12487

Austin, TX 78711

RE: Cause No. C-8991

B-6

STYLE: CHARLES L. MEYER

v. THE STATE BAR OF TEXAS

No. 453,046 in the 345th District Court, Travis
County

Dear Counsel:

Today, the Supreme Court of Texas
overruled the motion for rehearing in the above
referenced direct appeal. Appellant's second
motion for leave to amend pleading is dismissed
as moot.

Respectfully yours,

John T. Adams,
Clerk

cc.

Honorable Jerry A. Dellana, Judge
201st District Court

P. O. Box 1748

Austin, TX 78767

B-7

SUPREME COURT OF TEXAS

P. O. Box 12248

Supreme Court Building

Austin, Texas 78711

John T. Adams, Clerk

December 13, 1989

Mr. Charles L. Meyer

355 Pinewood Lane

San Antonio, TX 78216

Mr. Harry G. Potter, III

Office of the Attorney General of Texas

Jim Mattox, A. G.

P. O. Box 12548 Capitol Station

Austin, TX 78711

Mr. Steven L. Lee

Mr. Steven D. Peterson

Office of the General Counsel

State Bar of Texas

P. O. Box 12487

Austin, TX 78711

B-8

RE: Cause No. C-9145

STYLE: CHARLES L. MEYER

v. THE HONORABLE PETER LOWRY, JUDGE and
THE STATE BAR OF TEXAS

Dear Counsel:

Today, the Supreme Court of Texas
overruled relator's motion for leave to file
petition for writ of mandamus in the above
styled case.

Respectfully yours,

John T. Adams,

Clerk

cc.

Hon. Pete Lowry
Judge, 261st District Court
Travis County Courthouse
P.O. Box 1748
Austin, TX 78767

United States Code, Annotated, Constitution
**AMENDMENT XIV--CITIZENSHIP; PRIVILEGES AND
IMMUNITIES; DUE PROCESS; EQUAL PROTECTION;
APPOINTMENT OF REPRESENTATION; DISQUALIFICATION
OF OFFICERS; PUBLIC DEBT; ENFORCEMENT**

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No. State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within the jurisdiction the equal protection of the law.

Vernon's Constitution of the State of Texas
Annotated

**Article 1, § 19. Deprivation of life, liberty,
etc.; due course of law**

Sec. 19. No citizen of the State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

Vernon's Civil Statutes of the State of Texas
Annotated, Volume 17 $\frac{1}{2}$, 1990 Cumulative Annual
Pocket Part

**Article 6252-13a. Administrative Procedure and
Texas Register Act**

. . .

Judicial review of contested cases

Sec. 19. (a) A person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review under this Act. This section is cum-

ulative of other means of redress provided by statute.

(b) Proceedings for review are instituted by filing a petition within 30 days after the decision complained of is final and appealable. Unless otherwise provided by statute

(1) the petition is filed in a District Court of Travis County, Texas;

(2) a copy of the petition must be served on the agency and all parties of record in the proceedings before the agency; and

(3) the filing of the petition vacates an agency decision for which trial de novo is the manner of review authorized by law, but does not affect the enforcement of an agency decision for which another manner of review is authorized.

. . .

(e) The scope of judicial review of agency decisions is as provided by the law under which review is sought. Where the law authorizes appeal by trial de novo, the courts shall try the case in the manner applicable to other

civil suits in this state and as though there had been no intervening agency action or decision. Where the law authorizes review under the substantial evidence rule, or where the law does not define the scope of judicial review, the court may not substitute its judgment for that of the agency as to the weight of the evidence on questions committed to agency discretion but may affirm the decision of the agency in whole or in part and shall reverse or remand the case for further proceedings if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority of the agency;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) not reasonably supported by substantial evidence in view of the reliable and probative evidence in the record as a whole; or

(6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

. . .

Vernon's Texas Codes Annotated, Government Code

CHAPTER 22

SUBCHAPTER A. SUPREME COURT

§ 22.001. Jurisdiction

. . .

(c) An appeal may be taken directly to the supreme court from an order of a trial court granting or denying an interlocutory or permanent injunction on the ground of the constitutionality of a statute of this state. It is the duty of the supreme court to prescribe the necessary rules of procedure to be followed in perfecting the appeal.

. . .

§ 22.002. Writ Power

(a) The supreme court or a justice of the supreme court may issue writs of procedendo

and certiorari and all writs of quo warranto and mandamus agreeable to the principles of law regulating those writs, against a district judge, a court of appeals, or any officer of state government except the governor, the court of criminal appeals, or a judge of the court of criminal appeals.

. . . .

Vernon's Texas Codes Annotated, Government Code, Subtitle G, Attorneys, Chapter 82, State Bar

SUBCHAPTER A. GENERAL PROVISIONS

§ 81.011. General Powers

(a) The state bar is a public corporation and an administrative agency of the judicial department of government.

. . . .

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 81.030. General Counsel

(a) The board of directors, by a majority vote, elects the general counsel of the state bar. The general counsel holds office at the pleasure of the board.

(b) The general counsel must be a member of the state bar.

(c) The general counsel shall perform the duties usually expected of and performed by a general counsel.

(d) The general counsel shall:

(1) standardize throughout grievance districts the procedure, method of processing of grievance complaints;

(2) receive and maintain on behalf of the state bar the files and records of the grievance committees that pertain to discipline;

(3) expedite and coordinate the state bar's grievance duties imposed by this chapter; and

(4) **Perform** those duties delegated by the board of directors.

(e) On request of a grievance committee, the general counsel may investigate and prosecute suits to enjoin members, nonlicensees, and non-members of the state bar from the practice of law.

(g) The general counsel may not be a lobby-

ist registered with the secretary of state.

. . .

SUBCHAPTER E. DISCIPLINE

§ 81.074. Grievance Committee Powers and Duties

. . .

(c) Each grievance committee shall maintain records of all matters processed and the disposition of those matters. Committee records are confidential and are not subject to the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Civil Statutes). The final action of a committee resulting in a vote to publically reprimand, suspend, or seek disbarment shall be made public, except that the proceedings resulting in a private reprimand remain confidential. The committee, with the consent of the accused attorney, may disclose final action that clears the attorney of misconduct or that finds no jurisdiction or lack of probable cause to proceed. All records must be forwarded to the general counsel, and the

general counsel shall maintain a permanent record of the actions. The permanent record is public for statistical purposes only, but otherwise remains confidential as provided by this section.

. . .

§ 81.078. Disciplinary Proceedings

. . .

(b) On proof of an attorney's conviction in a trial court of competent jurisdiction of any felony involving moral turpitude or of any misdemeanor involving the theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order suspending the attorney from the practice of law during the pendency of any appeals from the conviction. An attorney who has been given probation after the conviction, whether adjudicated or unadjudicated, shall be suspended from the practice of law during the probation.

. . .

Vernon's Texas Codes Annotated, Government
Code, Volume 3, Title 2, Subtitle G Appendix

. . .

Article 10 § 4

. . .

Section 2. Definitions

. . .

(H) "Review Committee" means the disciplinary
review committee of the State Bar of Texas.

. . .

**Section 5. The Disciplinary Review Committee
of the State Bar of Texas**

(A) Review Committee and Appointment. The
disciplinary review committee is hereby created
as a standing committee of the State Bar. Its
members shall be appointed by the president with
the advice and counsel of the board. The review
committee shall not be abolished except by a
four-fifths (4/5) vote of the board. The review
committee shall consist of a lawyer member from
each bar district plus eight (8) public members

appointed as follows:

. . .

Vernon's Texas Codes Annotated, Government
Code, Volume 3, Title 2, Subtitle G Appendix

. . .

Article 10, Section 7. Grounds for Discipline

Discipline may be imposed for professional
misconduct which includes:

(1) Acts or omissions by a lawyer, individ-
ually or in concert with another person or per-
sons, which violate the Texas Code of Profess-
ional Responsibility, whether or not the acts or
omissions occurred in the course of a lawyer-
client relationship;

. . .

Article 10 § 10

Section 10. Generally

. . .

(E) Investigatory Hearing. The chairman of
the grievance committee, with or without the re-
quest of counsel, may order that an investigat-
ory hearing be conducted by the committee but

shall order an investigatory hearing at the request of the respondent. The hearing shall be held not sooner than twenty-five (25) days after notice of hearing to counsel and respondent except by their agreement. Where the respondent has failed to respond in writing to allegations against him and does not respond within twenty (20) days after service of the notice of hearing or within such additional period as the chairman allows, the chairman may refuse to conduct an investigatory hearing requested by the respondent. All notices of hearings shall advise the respondent that he is entitled to be represented by a lawyer at the hearing and to present evidence in his own behalf.

The hearing shall be a nonadversary proceeding but the grievance committee may allow such procedures for eliciting evidence as it deems necessary, including the taking of testimony from the complainant or respondent or other witnesses with or without the presence of each other.

(F) Appeal to Review Committee. Where the grievance committee rejects a matter as only constituting an inquiry, dismisses a complaint, or invokes sanctions which are clearly inappropriate, counsel or complainant, with approval of counsel, may appeal the action of the grievance committee to the review committee in accordance with such rules of procedure as the review committee shall promulgate. The review committee shall not consider evidence not presented to the grievance committee but shall allow the submission of briefs and oral arguments by any interested party. After final submission of the matter, the review committee shall promptly dispose of the appeal. It shall either affirm the action of the grievance or, where it finds clear and convincing evidence that the decision of the grievance committee is erroneous, remand the matter to the grievance committee for reconsideration and such other investigation as may be necessary. Only one (1) appeal in a given matter shall be permitted.

